

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:00-CR-19-BO
NO. 5:12-CV-319-BO

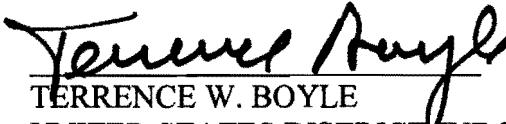
CARL LAMONT HAWKINS,)
Petitioner,)
)
v.) ORDER
)
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the Court on Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE 26]. Petitioner, Mr. Hawkins, asserts that he is not an Armed Career Criminal pursuant to 18 U.S.C. § 924(e) in light of the Fourth Circuit's holding in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011) (en banc).

The government has responded to Mr. Hawkins' § 2255 petition, stating that it waives its reliance on the statute-of-limitations defense and conceding that Mr. Hawkins has a meritorious claim [DE 33].

In light of the foregoing and the hearing held in this matter on August 29, 2012, the Court allows Mr. Hawkins' § 2255 petition. Accordingly, Mr. Hawkins' Motion to Vacate is GRANTED. The sentence entered in this matter on September 25, 2000, is hereby VACATED and Mr. Hawkins' revised sentence shall stand as imposed this day in open court.

SO ORDERED, this 29 day of August, 2012.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE